

LAKE COUNTY WASTEWATER TREATMENT SYSTEM REGULATIONS



**Adopted by the Lake County Board of Health
Effective Date: October 1, 2006**

Section 4.6 Revised 8-2011 to Comply with ARM 17.36.922 & 924

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LAKE COUNTY ENVIRONMENTAL HEALTH
Wastewater Treatment Systems

FEE SCHEDULE

Effective October 1, 2006

INSTALLATION / USE PERMIT <i>Includes new and replacement drainfields, engineered systems, pit privies</i>	300.00
CHANGE OF USE PERMIT	75.00
ADDITIONAL CONNECTION IN DESIGN- PER CONNECTION	50.00
SEPTIC TANK / PUMP CHAMBER INSTALLATION ONLY <i>Permitted Drainfield</i>	100.00
SECOND OR SUBSEQUENT INSPECTION	100.00
LOT EVALUATION	200.00
INSTALLERS LICENSE APPLICATION	50.00
GROUNDWATER MONITORING VERIFICATION	100.00
ADDITIONAL SYSTEM DESIGN/REVIEW TIME <i>Beyond 2 Hours</i>	50.00
EXPERIMENTAL SYSTEM APPLICATION	250.00
VARIANCE APPLICATION	250.00

ARTICLE 1 GENERAL INFORMATION

SECTION 1.1 Title

These regulations shall be known as the Lake County Wastewater Treatment System Regulations.

SECTION 1.2 Authority

Enactment of these regulations by the Lake County Board of Health is pursuant to M.C.A. 50-2-116 and A.R.M. 17.36.911.

SECTION 1.3 Purpose

The Lake County Board of Health declares the purpose of these regulations is to protect the public health, safety, and welfare of the community and to prevent the spread of communicable disease by ensuring wastewater is disposed in a manner that will not create a health hazard, adversely affect the environment, pollute state waters, or impair the enjoyment or use of property. These regulations further this purpose by setting forth minimum standards for the installation, alteration, repair, extension, and use of wastewater treatment systems within Lake County.

SECTION 1.4. Applicability

These regulations shall be applicable on fee status land throughout Lake County and shall be enforced by the Lake County Board of Health or its authorized agents. These regulations shall govern the disposal of wastewater from private and public buildings and facilities and the design and permitting of wastewater treatment systems except that these regulations shall not govern an approved municipal or publicly-owned wastewater treatment system.

SECTION 1.5 Designation of Authority

The Lake County Board of Health designates the Lake County Health Officer and the Lake County Environmental Health Department with the authority to administrate and enforce these regulations. The Lake County Board of Health reserves the right to hear any variance request or appeal to actions of the Department or Health Officer. The Board also retains the authority to amend these regulations as necessary.

SECTION 1.6 Definitions

1. Absorption Bed - an absorption system that consists of excavations greater than three (3) feet in width where the distribution piping is laid for the purpose of distributing pretreated waste effluent into the ground. Evapotranspiration absorption systems (ETA), as described in Chapter 18 of Circular DEQ4, are excluded from this definition.
2. Alteration - changing a wastewater treatment system by lengthening, shortening, adding or removing components, building structures over components, making non-cosmetic structural modifications to a building served by the system, or exchanging dwelling units; this shall not be construed to mean exchanging units in a campground or a trailer court currently licensed by the Montana Department of Public Health and Human Services. Alteration shall also include increasing the potential wastewater flow or strength beyond the design capacity of the system.
3. Applicant - a person or entity who submits an application for a permit to install, alter, extend, or repair a wastewater treatment system. The applicant must be the record owner of the property or an agent designated by the property owner.

4. Approved - consent given in writing by an authorized agent of the Lake County Board of Health.
5. Authorized Agents of the Lake County Board of Health - the Lake County Health Officer and registered sanitarians employed in the Lake County Environmental Health Department.
6. Bedrock - material that cannot be readily excavated by hand tools, or material that does not allow water to pass through or that has insufficient quantities of fines to provide for the adequate treatment and disposal of wastewater.
7. Board of Health - the legally designated Board of Health of Lake County, Montana, organized as defined in M.C.A. 50-2-104.
8. Cesspool - a seepage pit without a septic tank to pre-treat the wastewater.
9. Change of Use Permit - a written authorization issued by the Department for an increase or change in wastewater flow for an existing, permitted wastewater treatment system that does not require addition of any system components.
10. Cistern - a watertight receptacle of non-toxic material that is designed for storage of potable water.
11. Department - the Lake County Environmental Health Department of Lake County, Montana.
12. Effluent - partially treated sewage from a septic tank or other treatment facility.
13. Experimental System - a wastewater treatment system for which specific design standards are not provided in these regulations or Circular DEQ-4.
14. Gray Water - any wastewater other than toilet wastes or industrial chemicals, and includes but is not limited to shower and bath wastewater, kitchen wastewater, and laundry wastewater.
15. Health Officer - as per M.C.A. 50-2-116, an individual designated by the Lake County Board of Health who is a physician or a person with a master's degree in public health or the equivalent and with appropriate experience.
16. Holding Tank - a water-tight receptacle for the retention of wastewater before, during, or after treatment.
17. Installation Permit - a written authorization issued by the Department for the installation, alteration, repair, or extension of a wastewater treatment system.
18. Licensed Professional Engineer - a person licensed as an engineer by the State of Montana.
19. Licensed Septic Tank Pumper - a person licensed under state law to remove and dispose of wastewater treatment system residues in an approved manner at a site approved by the Montana Department of Environmental Quality and the Lake County

Board of Health.

20. Licensed Wastewater Treatment System Installer - an individual, partnership, or company that holds a current license issued by the Department to install, alter, or repair wastewater treatment systems under the terms of these regulations.

21. Parcel - Lot, tract, or other legally described and recorded portion of land.

22. Pit Privy - a structure with a pit that receives undiluted, non-water-carried toilet wastes.

23. Pre-Existing System - a wastewater treatment system installed before July 1, 1969 when permitting requirements were first established by the Lake County Board of Health.

24. Registered Sanitarian - a person registered as a sanitarian by the State of Montana under MCA 37-40.

25. Responsible Party - wastewater treatment system user, property owner, property owner's agents, wastewater treatment system installer, or other person whose actions or inactions have caused a violation.

26. Sealed Pit Privy - a pit privy with an enclosed receptacle designed to receive non-water-carried toilet wastes into a watertight vault.

27. Seasonal Use - use for not more than a total of four months (120 days) during any calendar year.

28. Seasonally High Ground Water - the depth from the natural ground surface to the upper surface of the zone of saturation, as measured in an unlined hole or perforated monitoring well during the time of the year when the water table is the highest. The term includes the upper surface of a perched water table.

29. Seepage Pit - a covered underground receptacle that receives wastewater after primary treatment in a septic tank and permits the wastewater to seep into the surrounding soil.

30. Septic Tank - a storage settling tank in which settled sludge is in immediate contact with the wastewater flowing through the tank while the organic solids are decomposed by anaerobic bacterial action.

31. Site Evaluation - an evaluation to determine if a parcel or location is suitable for the installation of a wastewater treatment system.

32. Soil Profile - a description of the soil strata to a depth of eight (8) feet using the Unified Soil Classification System.

33. State Waters - a body of water, irrigation system, or drainage system, either surface or underground. The term does not apply to ponds or lagoons for treating, transporting, or impounding pollutants or irrigation waters or land application disposal waters when the waters are used up within the irrigation or land application disposal system and the waters are not returned to state waters.

34. Use Permit - a written authorization issued by the Department for the use of a wastewater treatment system.

35. Variance - the granting, pursuant to Section 4.6 of these regulations, by the Lake County Board of Health, of an exception to the minimum requirements set out in these regulations, A.R.M. 17.36 Subchapter 9, or Circular DEQ-4.

36. Wastewater - water-carried waste that is discharged from a dwelling, building, or other facility, including household, commercial, or industrial wastes; human excreta; or animal and vegetable matter in suspension or solution. Wastewater includes gray water.

37. Wastewater Treatment System - a system that receives wastewater for purposes of treatment, storage or disposal. The term includes but is not limited to pit privies, subsurface disposal systems, seepage pits, holding tanks, and experimental systems.

ARTICLE 2 GENERAL REQUIREMENTS

SECTION 2.1 Prohibited Acts

A. No person may install, alter, repair, extend, or utilize any wastewater treatment system in a manner that may:

As per A.R.M. 17.36.913 (1):

1. *Contaminate any actual or potential drinking water supply;*
2. *Cause a public health hazard as a result of access to insects, rodents, or other possible carriers of disease to humans;*
3. *Cause a public health hazard by being accessible to persons or animals;*
4. *Violate any law or regulations governing water pollution or wastewater treatment and disposal;*
5. *Pollute or contaminate any state water in violation of 75-5-605, MCA; or*
6. *Cause a nuisance due to odor, unsightly appearance or other aesthetic consideration.*

B. No person may use a system that is not performing in compliance with its original permit. For example, a system permitted with a component for nitrate reduction must continue to provide the required reduction.

C. No person may install, alter, extend, or repair any wastewater treatment system drainfield or other unsealed component in the floodplain of any river or stream whose floodplain has been designated by Federal Emergency Management Agency or determined to be within a 100-year floodplain by the Lake County Floodplain Coordinator. - see Table in Section 4.2(B).

ARTICLE 3 ADMINISTRATIVE REQUIREMENTS

SECTION 3.1 Application for Installation Permit

A. No person may install, alter, repair or extend a wastewater treatment system unless the Department has issued an Installation Permit. This permit shall be for the specific installation, alteration, repair, or extension. Alterations may be authorized by a Change of Use Permit; see Section 3.5.

B. Minor repairs and/or maintenance may be made to a wastewater treatment system without first obtaining an Installation Permit. These repairs are limited to: replacing a broken sewer line, pumping the septic tank, cleaning the effluent filter and replacement of the

- effluent pump with a pump of equal specifications.
- C. No person may install a wastewater treatment system contrary to an Installation Permit as issued by the Department, unless the Department has previously approved the change.
 - D. It is the responsibility of the wastewater treatment system installer to ensure all setback requirements are met. In the event the installer discovers a situation that will prevent the system from being constructed as designed, it is the responsibility of the installer to halt further installation and contact the Department.
 - E. No person may install, alter, extend or repair a wastewater treatment system within Lake County unless that person holds a valid Lake County Wastewater Treatment System Installer License or is exempted as per Section 3.6 (A)(2).
 - F. Application for a wastewater treatment system Installation Permit shall be submitted by the owner of the parcel or his/her authorized agent on forms provided by the Department and shall include the following information:
 - 1. Name, address, and phone number of the property owner.
 - 2. Legal description of the property.
 - 3. Installer's name, if known.
 - 4. Lot layout consisting of:
 - a. property lines
 - b. existing and proposed structures, including basements
 - c. floor plan for each level of the structure
 - d. all existing or proposed wells and/or domestic water sources within 100 feet of the property lines
 - e. all streams, lakes, springs, ponds, irrigation ditches, and other surface water sources within 100 feet of property lines
 - f. driveways, parking areas
 - g. utility lines
 - h. any existing sewage disposal facilities
 - i. a scale (for example: 1 inch=20 feet)
 - j. direction of slope on the property
 - k. a north directional arrow
 - l. replacement area or plan for proposed wastewater treatment system
 - 5. The Department may require the applicant have a soil profile dug in the area of the proposed wastewater treatment system drainfield. The depth of the test hole will be dependent upon the type of information the Department determines is necessary to that specific situation. The Department may require the applicant provide more than one test hole depending upon the variability of the soils, the type of information necessary, and/or the anticipated size of the drainfield area.
 - 6. The Department may require a percolation test be completed in the area of the proposed drainfield and/or the replacement area. The percolation test must be done in accordance with Circular DEQ4.
 - 7. The Department may require groundwater monitoring in the area of the proposed drainfield if it has reason to believe groundwater will be within 7 feet of the surface at any time of the year within the boundaries of the drainfield. The applicant must provide data to demonstrate the minimum separation distance between the absorption trench bottom and the seasonally high groundwater level can be maintained. The applicant may be required to install groundwater observation wells to depth of 8 feet to determine the seasonally high groundwater level and employ a qualified consultant to observe the wells through the seasonally high groundwater period. If the applicant chooses to conduct the monitoring, he/she must register on a form provided by the Department. Registration by the applicant will provide permission to access the property and

provide the required payment to allow the Department to verify the monitoring results. Measurement must occur for a long enough period of time to detect a peak and then a sustained decline in the groundwater level.

The Department may reject groundwater monitoring information:

- a. During a drought year as per Appendix C of DEQ4,
 - b. If historic information is available that indicates a high ground water situation, and/or
 - c. If site conditions exist that are not typical to the property. An example of site conditions being atypical would be a tract where normal irrigation practices have been altered or suspended during the season when ground water monitoring is conducted.
8. If a wastewater treatment system is designed by a person outside the Department, a complete plan of the proposed system to be installed, with substantiating data attesting to its compliance with the minimum standards set forth in these regulations, must be submitted to the Department.
 9. The Department shall have the authority to require certification or re-testing to verify information submitted as part of the application.
 10. The Department may require evidence that the wastewater treatment system will comply with all adopted zoning and/or land use planning requirements for the area.
 11. The Department may require any additional information relating directly to the installation of an acceptable wastewater treatment system.
- G. The wastewater treatment system must be designed either by the Department, a licensed professional engineer, or a registered sanitarian.
- H. The Department may require a wastewater treatment system be designed by and installed under the seal of a licensed professional engineer or by a registered sanitarian when the system:
1. Has a specific public or environmental health concern.
 2. Is an experimental system.
 3. Requires a variance from the Lake County Board of Health.
 4. Serves a commercial or industrial establishment.
 5. Serves a multi-family residence.
 6. Is located on a parcel with challenging site conditions.
- The Lake County Board of Health and its authorized agents reserve the right to require a property owner retain the services of a professional engineer or registered sanitarian in the event the system cannot be designed by the Lake County Environmental Health Department in a timely manner or is beyond the abilities of current professional staff.
- I. The Department may conduct such investigations, examination, tests and site evaluations, as it deems necessary to verify information contained in an application. The filing of an application for a wastewater treatment system installation permit shall be deemed a granting of approval by the applicant to the Department for necessary site visits during normal business hours.
- J. Permit Fees:
- A permit fee shall accompany the completed application when submitted to the Department for review. Payment to the Lake County Environmental Health Department shall be as follows:
- | | |
|---|----------|
| Installation/Use Permit | \$300.00 |
| Additional Connection in Design - per Connection... .. | \$ 50.00 |
| Septic Tank/Pump Chamber Installation Only - Permitted Drainfield.... | \$100.00 |
| Second or Subsequent Inspection | \$100.00 |
| Change of Use Permit | \$ 75.00 |

- Lot Evaluation.....\$200.00
Groundwater Monitoring Verification\$100.00
Additional system design and/or review time per hour beyond 2hr\$ 50.00
- K. If the applicant initiates a change in the wastewater treatment system design after it is approved by the Department, a second Installation/Use Permit fee must be submitted prior to the second review or alteration of the design.
 - L. An Installation Permit is granted for a specific structure(s) in a specific location(s). Any change in structure or location affecting the design and not approved by the Department will void the Installation Permit.
 - M. Any system that has a specialized design, maintenance or performance requirement may require a Deed Restriction be filed on the property as determined by the Department.
 - N. An Installation Permit that requires a Deed Restriction, Easement Agreement and/or Shared User Agreement will be issued only after the signed document(s) and filing fee(s) have been received by the Department. The Department will file the document(s) and will provide a copy of the filed document(s) to the applicant along with the issued Use Permit.
 - O. An applicant may appeal the approved Department design as per Section 8.1. The applicant may employ a licensed professional engineer or registered sanitarian for an alternative design to be approved by the Department and subject to an additional Installation Permit fee.

SECTION 3.2 Denial of Installation Permit or Disapproval of Plans

- A. The Lake County Board of Health or its authorized agents may deny an Installation Permit for any of the following reasons:
 - 1. Due to physical limitations, the parcel cannot support an on-site wastewater treatment system in conformance with these regulations.
 - 2. The applicant has failed to supply all data necessary to make a determination as to whether or not the wastewater treatment system conforms to these regulations and/or has failed to supply such information within the time frame specified in the written request for additional information.
 - 3. The wastewater treatment system design, as proposed, will not conform to these regulations.
 - 4. The parcel of land is being reviewed under the Sanitation in Subdivisions Act. Per MCA 76-4-121, no facilities for wastewater treatment may be constructed on the parcel until the review of the subdivision has been completed and approved. Replacement systems may be excluded from this requirement by the Department.
 - 5. A stipulation of the Certificate of Subdivision Approval has been violated or there is departure from any criterion set forth in the approved plans and specifications of the subdivision.
- B. Written notice of the denial of a permit with detailed reasons for denial shall be given to the applicant within 60 days of submittal to the Department or as promptly as possible given Department staffing and workload.
- C. Appeal: Upon denial of an Installation Permit, the applicant may make appeal per Section 8.1.

SECTION 3.3 Expiration of Installation Permits

An Installation Permit is valid for twenty-four months from the issuance date. If the wastewater treatment system is not completed within twenty-four months of issuance, the Installation Permit will expire. The Department may grant a twelve-month extension if contacted by the applicant prior to the end of the original twenty-four month period. The extension will be denied if the

Installation Permit is no longer in compliance with current regulations.

SECTION 3.4. Use Permit

- A. Any system that requires an Installation Permit at the time of construction or alteration may not be utilized until a valid Use Permit has been issued by the Department.
- B. A final inspection by the Department of the installation is required prior to covering the completed wastewater treatment system. It shall be the duty of the installer to notify the Department at least forty-eight (48) hours prior to the completion of the system. If the final inspection cannot be made within forty-eight (48) hours after notification, arrangements for the inspection shall be negotiated between the inspector and the installer.

In addition, the Department may require the designing entity furnish written certification that an inspection has been made verifying the system is installed in accordance with the approved design. An as-built drawing acceptable to the Department may also be required.

- C. If it is determined that the installation is in compliance with the construction details and distance requirements set forth in the Installation Permit and these regulations, the Department shall issue a Use Permit to the property owner. The Use Permit shall constitute the final approval of the installation.
- D. If any part of the system has been covered prior to final inspection without Department approval, it may be required to be uncovered upon the order of the Department.
- E. Inspections of wastewater treatment systems by the Department are performed only for the purpose of determining that the minimum requirements of these regulations have been met and are not conducted for the purpose of analyzing or insuring workmanship. Inspections are not intended to guarantee the life expectancy and operation of the facilities. Therefore, the issuance of a Use Permit does not constitute assumption by the Department of liability for the failure of any wastewater treatment system.
- F. A copy of the final Use Permit shall be kept on file at the Department.
- G. Any alteration of the wastewater treatment system not approved by the Department after the Use Permit has been issued invalidates the permit.
- H. Any change to the parcel or a nearby parcel that impacts the compliance of the approved wastewater treatment system may void the Use Permit as determined by the Department. Examples include but are not limited to:
 - 1. The installation of a well that does not meet the minimum setback distances as given in Section 4.2(B).
 - 2. Building structures over system components.
 - 3. Applying additional fill over the drainfield.
 - 4. Adjusting boundary lines such that a system component is separated from the original parcel without benefit of a filed easement.
- I. Appeal: Upon denial of a Use Permit, the applicant may make appeal per Section 8.1.

SECTION 3.5 Change of Use Permit

- A. No person may increase wastewater flow or strength beyond the design of a wastewater treatment system without a Change of Use Permit issued by the Department. Examples of uses requiring a Change of Use Permit include but are not limited to:
 - 1. Addition of a bedroom(s) to a residence.
 - 2. Alteration of a residential use - examples include:
 - daycare facility
 - office or home occupation
 - vacation rental

•bed and breakfast

3. Any change in use of a commercial or industrial building. The Department shall determine if either the flow or the strength of the wastewater requires additional capacity beyond the original system design.
 4. Removal of a mobile home and replacement with another mobile home, except that exchanging a unit within a mobile home court licensed by the Montana Department of Health and Human Services does not require a Change of Use Permit.
 5. Replacement of a structure with a different structure.
 6. Addition of a water treatment unit or water fixture that has potential to increase wastewater flow or strength beyond the design capacity of the system.
- B. A property owner or designated agent must request a Change of Use Permit on forms provided by the Department. Upon submittal of a Change of Use Permit application and fee, the Department will review the existing wastewater system and reserves the right to inspect the system in accordance with Section 8.4 of these regulations.
- C. If the existing wastewater system is not adequate for the proposed use and the property owner elects to pursue the change, the owner will be required to apply for an Installation Permit and upgrade the system in accordance with the Installation Permit. The Change of Use Permit fee will be applied toward the Installation Permit fee.
- D. A Change of Use Permit cannot be issued in the following cases:
1. If any new components are required for the wastewater treatment system.
 2. If the existing wastewater treatment system does not have a valid Use Permit of record issued by the Department or other recognized agency.
 3. If the existing wastewater treatment system does not meet minimum standards or is a system listed under Section 4.3, unless otherwise determined by the Department.
 4. If the Department determines that the proposed change of the wastewater system may adversely affect public health or the environment.
- E. Appeal: Upon denial of a Change of Use Permit, the applicant may make appeal per Section 8.1.

SECTION 3.6 Wastewater Treatment System Installer

- A. License Required
1. Except as provided in Section 3.6.(A)(2), no person may install, alter, repair, or extend a wastewater treatment system unless he/she holds a valid Lake County Wastewater Treatment System Installer License. Employees of a validly licensed Lake County wastewater treatment system installer shall not be required to be licensed.
 2. Any landowner of record may install a wastewater treatment system on his/her own property without obtaining a Lake County Wastewater System Installer License. However, the landowner is subject to the requirements of Section 3.6(B) with the exception of the license fee given in 3.6(B)(1).
- B. Requirements for a Lake County Wastewater Treatment System Installer License:
1. Application for a Wastewater Treatment System Installer License shall be made on forms provided by the Department and is valid for six months. The application fee for a license shall be \$50.00. Licenses shall expire on December 31st of each year and shall be renewed within sixty (60) days; an annual renewal fee of \$25.00 shall be charged. An expired license shall be subject to the application fee and other requirements established for new licenses.
 2. Prior to the issuance or renewal of a license, the Department may require the applicant demonstrate adequate knowledge of these regulations and/or the ability

- to properly install a wastewater treatment system in compliance with these regulations.
3. Installation, alteration, repair or extension of any wastewater treatment system shall be done in compliance with these regulations and with the conditions given in the Installation Permit.
 4. The Installer shall request a final inspection by the Department not less than forty-eight (48) hours before the inspection is to be made.
- C. Denial or Revocation of a Lake County Wastewater Treatment System Installer License
1. A license may be denied or revoked by the Lake County Board of Health, Health Officer, or Lake County Environmental Health Department for any of the following reasons:
 - a. Having been found in violation of these regulations or an order by the Department, Health Officer, or Board of Health.
 - b. Having a Lake County Wastewater Treatment System Installer License revoked within twelve months preceding the application.
 - c. Having offered false information in order to obtain a Lake County Wastewater Treatment System Installer License or any permit issued in accordance with these regulations within twelve months preceding the application.
 - d. Failure to meet the requirements of the license application including any required demonstration of knowledge (for example: a written exam).
 2. Written notice of denial or revocation signed by the Department, Health Officer, or Board of Health stating the reasons for denial or revocation shall be delivered to the applicant by certified mail or personal delivery.
- D. Appeal to the Board of Health: Upon denial or revocation of a Lake County Wastewater Treatment System Installer License, the applicant or installer may make appeal to the Lake County Board of Health per Section 8.1.

SECTION 3.7 Licensed Septic Tank Pumpers

- A. Septic tank pumpers shall be licensed by the Montana Department of Environmental Quality in accordance with A.R.M. 17.50 SubChapter 8.
- B. Disposal sites for wastewater pumped from wastewater treatment systems shall be reviewed and approved by the Lake County Board of Health in accordance with A.R.M. 17.50.809. A \$200.00 inspection fee shall be submitted to the Department with the application for evaluation of each proposed disposal site.

ARTICLE 4 TECHNICAL REQUIREMENTS

SECTION 4.1 Compliance

Unless otherwise required by a more stringent standard of these regulations, wastewater treatment systems shall comply with the specifications set forth in the most current versions of A.R.M. 17.36. SubChapter 9, *Minimum Standards for SubSurface Wastewater_Treatment Systems*, Circular DEQ4 *Montana Standards for Subsurface Wastewater Treatment Systems*, and M.C.A. 75-5 *Montana Water Quality Act with A.R.M. 17.30 SubChapter 7*.

SECTION 4.2 General Standards

- A. If a Montana Department of Environmental Quality approved municipal or publicly-owned wastewater collection and treatment system is readily available within a distance of 200 feet of the property line for a new source of wastewater or as a replacement for a failed wastewater treatment system and the owner or managing entity of the system

approves the connection, wastewater must be discharged to the municipal or publicly-owned system. Not “readily available” will be based upon evidence demonstrating that the connection is physically or economically impractical and/or that easements cannot be obtained. For purposes of this rule, a connection is economically impractical if the cost of the connection is equal to or greater than three times the cost of installation of a Department-approvable wastewater treatment system on the site.

- B. The components of any wastewater treatment system shall be located so as to comply with the minimum separation requirements in accordance with A.R.M. 17.36.918 as shown in the following table:

<i>Note: All measurements are in feet.</i>	Sealed components (1) Other components (2)	Absorption Systems (3)
Public or Multi-user Wells/Springs	100	100
Other wells	50	100
Suction lines	50	100
Cisterns	25	50
Roadcuts/Escarpments	10 (4)	25
Slopes > 25% (5)	10 (4)	25
Property boundaries	10	10
Subsurface drains	10	10
Water lines	10	10
Drainfields/Sand Mounds (3)	10	--
Foundation Walls	10	10
Surface water, Springs	50	100
Floodplains	-- (1) 100 (2)	100

- (1) Sealed components include sewer lines, sewer mains, septic tanks, grease traps, dosing tanks, pumping chambers, holding tanks and sealed pit privies. Holding tanks and sealed pit privies must be located at least ten (10) feet outside the floodplain or any openings must be at least two (2) feet above the floodplain elevation.
- (2) Other components include intermittent and recirculating sand filters, package plants and evapotranspiration (ET) systems.
- (3) Absorption systems include absorption trenches, absorption beds, sand mounds, and other drainfield-type systems that are not lined or sealed. This term also includes seepage pits and unsealed pit privies.
- (4) Sewer lines and sewer mains may be located in roadways and on steep slopes if the lines and mains are safeguarded against damage.
- (5) Down gradient of the sealed component, other component, or drainfield/sand mound.

- C. Wastewater treatment systems must be located to maximize the vertical separation distance from the bottom of the absorption trench to the seasonally high groundwater level, bedrock, or other limiting layer, but under no circumstances may this vertical separation be less than four feet of natural soil to the limiting layer.
- D. Only wastewater as defined in these regulations may be discharged into the wastewater treatment system. Surface and subsurface water including roof, cellar, foundation, storm drainage, and water softener discharge shall be excluded from such systems and shall be disposed in a manner that will not affect the wastewater treatment system.
- E. No structure shall be located over any part of the wastewater treatment system unless the structure is designed to accommodate operation and maintenance of the system.
- F. No component of any wastewater treatment system shall be located under driveways, roads, parking areas or areas subject to heavy loading and no vehicles shall be driven over the system after installation, except those portions properly installed to accept traffic loads.
- G. To facilitate maintenance of pumps, siphons, and filters, access ports must be extended to the finished ground surface, have lids of lightweight/durable construction, and have lids

- secured with hex screws, lag bolts, locks, or other method to prevent child access.
- H. No wastewater treatment system shall be placed in any easement that has been previously designated for a non-compatible use. The Department shall make the determination as to which kinds of easements are non-compatible.
 - I. A replacement area or plan must be provided for each new or expanded wastewater treatment system, must be in compliance with these regulations, must be designated on the parcel, and the uses restricted accordingly.

SECTION 4.3 Absorption Beds, Holding Tanks, Seepage Pits, and Pit Privies

- A. The wastewater treatment systems described in this section may be allowed only if the Department determines that:
 - 1. Site constraints prevent the applicant from constructing a system that meets the requirements of any other system described in Circular DEQ4;
 - 2. All off-site treatment alternatives have been considered and are infeasible;
 - 3. The requirements of Section 2.1 are met; and
 - 4. All other requirements in these regulations applicable to the proposed system are met.
- B. The wastewater treatment systems described in this section are subject to the permitting application and fee requirements of Article 3 of these regulations. Installation Permit applications for these systems must include verification that all other alternatives to wastewater treatment have been considered and determined not to be feasible.
- C. The wastewater treatment systems described in this section must meet the design and construction requirements in Circular DEQ4.
- D. Absorption beds may be used for replacement systems only and may not be constructed in unstabilized fill.
- E. Seepage pits may be used for replacement systems only and only when no other means of treatment and disposal is available. Seepage pits must be located a minimum of 25 feet from groundwater or bedrock.
- F. Holding tanks may only be approved:
 - 1. If the facility to be served is for seasonal-use only, or
 - 2. For year round residences, as a replacement for a failed wastewater treatment system when the property cannot accommodate a replacement system in compliance with these regulations and an offsite easement cannot be reasonably obtained.
 - 3. If a signed deed restriction stating the conditions of the permit is filed as per Section 3.1(N) of these regulations.Applications for holding tank systems must include the following:
 - 1. Proposal of tank level monitoring system with alarm and/or telemetry as determined by the Department.
 - 2. Means of waterproofing tank.
 - 3. Maintenance plan for annual water tightness testing and periodic pumping by a Licensed Septic Tank Pumper.
 - 4. Method of tank stabilizing if seasonal high groundwater is expected to come within 12 inches of the tank's base.
- G. Sealed pit privies may be approved only if the facility to be served does not have a piped water supply and is a seasonal-use recreational site. The use of and plans for the sealed pit privy must be approved by the Department. Sealed pit privy systems must meet the design and construction requirements of Circular DEQ4.
- H. Sealed pit privies may be approved on properties with a piped water supply only if it is used as a backup to an existing wastewater system.
- I. Unsealed pit privies may be approved only if the parcel to be served does not have a

pipled water supply, is a seasonal-use recreational site, and is in a remote location that is not accessible to septic tank pumpers, and it is determined by the Department that Section 2.1 of these regulations will not be violated.

SECTION 4.4 Non-Discharging Toilets, Gray Water Systems, and Portable Chemical Toilets

- A. Non-discharging toilets such as composting toilets, incinerator toilets and non-portable chemical toilets are acceptable provided design and construction details are supplied to the Department and are found to be acceptable.
- B. Gray water disposal shall provide a wastewater treatment system in compliance with these regulations.
- C. Portable chemical toilets are not subject to permitting requirements of these regulations. Use of portable chemical toilets in permanently occupied buildings shall be prohibited except during construction projects and other temporary uses as approved by the Department. Portable chemical toilets are subject to the minimum horizontal setbacks as given for sealed components in Table 4.2(B).

SECTION 4.5 Cesspools and Open Slit Trenches

New construction or alteration of cesspools is prohibited. Open slit trenches are prohibited.

SECTION 4.6 Variances – revised by the Board of Health at the August 16, 2011 meeting in order to comply with amendments to ARM 17.36.922 per Section 8.7 of these regulations.

- A. As provided in A.R.M. 17.36.922, the Lake County Board of Health may grant variances from these regulations, A.R.M. 17.36 SubChapter 9, and Circular DEQ-4, except for requirements established by statute.
- B. The Lake County Board of Health may grant a variance from a requirement only if it finds that all of the following criteria are met:
 - 1. Granting the variance will not:
 - a. contaminate any actual or potential drinking water supply;
 - b. cause a public health hazard as a result of access to insects, rodents, or other possible carriers of disease to humans;
 - c. cause a public health hazard by being accessible to persons or animals;
 - d. violate any law or regulation governing water pollution or wastewater treatment and disposal, including the rules contained in A.R.M. 17.36.SubChapter 9 except for the rule that the variance is requested from;
 - e. pollute or contaminate state waters, in violation of 75-5-605, MCA;
 - f. degrade state waters unless authorized pursuant to 75-5-303, MCA; or
 - g. cause a nuisance due to odor, unsightly appearance, or other aesthetic consideration;
 - 2. Compliance with the requirement from which the variance is requested would result in undue hardship to the applicant;
 - 3. The variance is necessary to address extraordinary conditions that the applicant could not reasonably have prevented;
 - 4. No alternatives that comply with the requirement are reasonably feasible; and
 - 5. The variance requested is not more than the minimum needed to address the extraordinary conditions.
- B. Any person wishing to apply for a variance shall make application on forms provided by the Department and shall supply such information as the Lake County Board of Health or its authorized agent deems necessary to properly evaluate the proposal. A \$250.00 fee shall accompany the application.
- C. Upon receipt of the completed application and fee, the Department shall schedule and

- hold a public hearing in accordance with Section 8.3 of these regulations.
- D. Appeal: The Lake County Board of Health's decision on a variance of a requirement of A.R.M. 17.36.SubChapter 9 *Minimum Standards for SubSurface Wastewater Treatment Systems* or Circular DEQ4 *Montana Standards for Subsurface Wastewater Treatment Systems* may be appealed to the Montana Department of Environmental Quality pursuant to A.R.M. 17.36.924.

ARTICLE 5 PRE-EXISTING WASTEWATER TREATMENT SYSTEMS

SECTION 5.1 Continuation of Pre-Existing Systems

Subject to the provisions of these regulations, the use or maintenance of a properly functioning pre-existing wastewater treatment system may be continued. It shall be unlawful to alter, enlarge, repair or extend such system. This article shall not be construed to permit a use when the pre-existing system violates Section 2.1. of these regulations.

SECTION 5.2 Repair, Alteration, Enlargement or Extension of Pre-Existing Systems

- A. It shall be unlawful to repair, alter, enlarge or extend a pre-existing wastewater treatment system. All pre-existing systems for which major repairs are required shall be replaced under an Installation Permit.
- B. When application is made for an additional wastewater treatment system on a parcel with a pre-existing or unapproved system, the pre-existing or unapproved system must be replaced under these regulations before or at the same time the additional system is installed.

ARTICLE 6 EXPERIMENTAL WASTEWATER TREATMENT SYSTEMS

SECTION 6.1 Purpose

The Lake County Board of Health acknowledges the need for progress in wastewater treatment and encourages the development of technology and design that will improve or facilitate wastewater treatment and its efficient disposal. Manufacturers whose design lacks sufficient technical data or background for inclusion on the acceptable design list from the Montana Department of Environmental Quality may petition the Lake County Board of Health for an Experimental Installation Permit.

SECTION 6.2 Authorization

The Lake County Board of Health, in accordance with the standards and procedures set forth in this article, shall review any proposal for an experimental wastewater treatment system. In approving such systems, the Lake County Board of Health may impose reasonable conditions to further the purposes of these regulations.

SECTION 6.3 Application

- A. Any person wishing to apply for permission to install an experimental wastewater system shall make application on forms provided by the Department and shall supply such information as the Lake County Board of Health, or its authorized agents, deems necessary to properly evaluate the proposal. A \$250.00 application fee shall accompany the permit.
- B. The Lake County Board of Health may approve an application for an experimental type system only if the system has been designed by a Licensed Professional Engineer and

only if the application provides an acceptable plan for the installation of a back-up system.

SECTION 6.4 Requirements for Experimental Wastewater Systems

- A. Requirements for an Experimental Installation Permit:
1. The design specifications along with any previous laboratory or field tests shall be submitted with the application.
 2. The Installation Permit fee shall be submitted with the application.
 3. The necessary field tests that will produce adequate data shall be agreed upon between the manufacturer and the Lake County Board of Health.
 4. Installation shall be made as stipulated.
 5. The field tests shall be completed and the results of the tests shall be submitted to the Department. All test costs shall be borne by the manufacturer or the applicant.
 6. The Lake County Board of Health shall determine the duration of the testing period and shall collect a fee for administrative costs associated with the testing period.
 7. The manufacturer or designer shall warrant the design and the installation. And shall agree, in writing, to remove an unsatisfactory installation, as determined by the Lake County Board of Health, within the time limit stipulated by the Board.
 8. A backup system of an approved design shall be provided.
 9. A signed deed restriction stating the experimental nature of the wastewater treatment system and the conditions of the permit shall be filed per Section 3.1(N) of these regulations and shall be reversible only upon satisfactory performance as given in (B).
- B. Upon satisfactory performance of the design and installation, the Board of Health may approve the installation and remove the experimental designation on the Use Permit for the wastewater treatment system.
- C. An unsatisfactory installation may be repaired or changed in design with the consent of and observation of the Lake County Board of Health. However, the Board of Health may limit the duration of the testing period, and may declare the design and installation to be unsatisfactory and to be replaced by an acceptable installation or to be removed from the designated parcel.

ARTICLE 7 ENFORCEMENT AND PENALTIES

SECTION 7.1 Notice of Violation or Order of the Lake County Board of Health

If any inspection discloses there has been a violation of these regulations or order of the Board of Health or authorized agents, the responsible party shall be given notice of such violation. Such notice shall be in writing and shall state the violation, the required corrective action, and provide a reasonable time for correction. Service of such notice shall be by means of certified mail or personal delivery.

A re-inspection shall be made by the Department upon receipt of notification that the violation has been corrected or at the end of the time period allowed for corrective action. The correction of a violation does not preclude the assessment of penalties as provided for in Section 7.3. If the violation has not been corrected or an order has been violated, the Board of Health or its authorized agents may seek criminal prosecution as per Section 7.3.

SECTION 7.2 Cease and Desist Order

The Lake County Board of Health or its authorized agents may issue an order to cease and desist from the use of any wastewater treatment system that is found not to be functioning in compliance with these regulations. In addition, the Health Officer, as per M.C.A. 50-2-123, may issue an order to cease and desist from any further installation, alteration, repair or extension of any wastewater treatment system for which a valid Installation Permit has not been issued under the provisions of these regulations. The order shall require the responsible party bring the wastewater treatment system into compliance within a reasonable period of time, not to exceed thirty (30) days.

A re-inspection shall be made by the Department upon receipt of notification that the wastewater treatment system has been brought into compliance or at the end of the time period allowed for corrective action. The correction of a violation does not preclude the assessment of penalties as provided for in Section 7.3. If the violation has not been corrected or an order has been violated, the Board of Health or authorized agents may seek criminal prosecution as per Section 7.3.

SECTION 7.3 Penalty for Violation

- A. The Lake County Board of Health or its authorized agents may assess a penalty for violation of these regulations. The penalty shall not exceed \$500 per violation and shall be assigned according to the severity of the violation. Each day of violation may be considered a separate violation.
- B. Any violation of these regulations or order of the Lake County Board of Health is subject to criminal prosecution in accordance with M.C.A. 50-2-123-124.

As per M.C.A. 50-2-123: Compliance order authorized.

If a person refuses or neglects to comply with a written order of a state or local health officer within a reasonable time specified in the order, the state or local health officer may cause the order to be complied with and initiate an action to recover any expenses incurred from the person who refused or neglected to comply with the order. The action to recover expenses shall be brought in the name of the county.

As per M.C.A. 50-2-124 Penalties for Violations

- (1) *A person who does not comply with rules adopted by a local board is guilty of a misdemeanor. On conviction, he shall be fined not less than \$10 or more than \$200.*
- (2) *Except as provided in subsection (1) of section and M.C.A. 50-2-123, a person who violates the provisions of this chapter or rules adopted by the Montana Department of Environmental Quality under the provisions of this chapter is guilty of a misdemeanor. On conviction, he shall be fined not less than \$10 or more than \$500, imprisoned for not more than 90 days, or both.*
- (3) *Each day of violation constitutes a separate offense.*
- (4) *Fines, except justice's court fines, shall be paid to the county treasurer of the county in which the violation occurs.*

SECTION 7.4 Misrepresentations

Any permit, license, or approval granted under these regulations which is based upon or is granted in reliance upon any material misrepresentation, or failure to make a material fact or circumstance known by or on behalf of an applicant, shall be void. This section shall not be construed to affect the remedies available to Lake County under Section 7.3 of these regulations.

ARTICLE 8 MISCELLANEOUS PROVISIONS

SECTION 8.1 Appeals to the Department or Lake County Board of Health

- A. All decisions regarding permits, licenses, or other matters made by the Department staff may be presented to the Department administrator for review.
- B. Upon denial of a permit or license or a decision by the Department or Health Officer, an individual may make appeal to the Lake County Board of Health. The appeal to the Board of Health must be received within sixty (60) days of the denial of a permit, license or other decision by the Department. The Board of Health shall within forty-five (45) days either deny the appeal or set a date for a hearing. If requested by the applicant or if deemed necessary by the Board of Health, a public hearing shall be held and notice of public hearing shall be in accordance with Section 8.3 of these regulations. If the applicant requests the public hearing, the cost of the legal notice for the public hearing shall be borne by the applicant.

SECTION 8.2 Appeals to the Montana Department of Environmental Quality

The Lake County Board of Health's decision on variances may be appealed to the Montana Department of Environmental Quality pursuant to A.R.M. 17.36.924.

SECTION 8.3 Public Hearings

When the Lake County Board of Health is required or determines it necessary to hold a public hearing, as provided for by the terms of these regulations, notice of the hearing shall be given in the following manner as per *M.C.A. 7-1-2121 Publication and Content of Notice*:

- 1. Each notice of public hearing shall be published twice in a newspaper of general paid circulation, published at least weekly in Lake County.
- 2. The notice shall be published twice with at least six (6) days separating publications. The first publication must be no more than twenty-one (21) days prior to the action and the last no less than three (3) days prior to the action.
- 3. The published notice must contain the date, time and place of the hearing or other action, a brief statement of the action to be taken, and the contact information for further information.
- 4. Each notice of public hearing shall be published twice in the official newspaper of the county and/or a newspaper of general circulation in the county at least fifteen (15) days prior to the date of the hearing.
- 5. In addition, at least fifteen (15) days prior to the date of hearing, notices shall be mailed to the applicant, to each owner of record of the land involved in the application, to all owners of property within five hundred (500) feet of the exterior boundary of the subject property, as may be determined by the latest tax assessment records of the county.
- 6. Any hearing may be recessed by the Board to obtain additional information or to serve further notice upon other property owners. Upon recessing, the time and date when the hearing is to be resumed shall be announced.
- 7. The decision of the Board of Health shall be in writing and kept of record by the Department.

SECTION 8.4 Right to Inspect

The Lake County Board of Health or authorized agents may inspect any wastewater treatment system in Lake County to ensure it is being maintained in proper working order and in compliance with these regulations. It shall be unlawful for the owner or occupant of the property to deny such officials free access to the property for the purpose of making such inspections as are necessary. Where practical, inspections shall be made only after reasonable notice to the owner or occupant.

SECTION 8.5 Conflict of Ordinances

- A. Any case where a provision of these regulations is found to be in conflict with a provision of any zoning, building, fire, safety or health regulation, or code of the county existing on the effective date of these regulations, the provision which, in the judgment of the Lake County Board of Health or authorized agents, establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.
- B. In any case where a provision of any other ordinance or code of the county existing on the effective date of this regulation which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of these regulations shall be deemed to prevail and such other ordinance or codes are hereby declared to be repealed to the extent that they may be found in conflict with these regulations.
- C. These regulations supercede all prior regulations or amendments thereof established by the Lake County Board of Health pertaining to wastewater treatment systems in Lake County, Montana.

SECTION 8.6 Effect of Partial Invalidity

If any section, subsection, paragraph, sentence, clause or phase of these regulations should be declared invalid for any reason, such decision shall not affect the remaining portions of these regulations, which shall remain in full force and effect; and to this end, the provisions of these regulations are hereby declared to be severable.

SECTION 8.7 Continuing Compliance With State Minimum Standards

If Montana law affecting state minimum standards for wastewater treatment systems is either created or amended, the Lake County Board of Health reserves the right to amend these regulations without public notice or hearing in order to meet required minimum state standards.

SECTION 8.8 Consistency with Laws Regarding Local Boards of Health and Health Officers

If Montana law governing the duties, responsibilities and authorities of local boards of health and health officers is either created or amended, the Lake County Board of Health reserves the right to amend these regulations without public notice or hearing as necessary to be consistent with such state law.

SECTION 8.9 Effective Date

The effective date of these regulations shall be October 1, 2006.